

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

In re: Clearview AI, Inc., Consumer Privacy
Litigation

Case No: 1:21-cv-135

Judge Sharon Johnson Coleman

Magistrate Judge Maria Valdez

**MACY’S DEFENDANTS’ OPPOSITION TO PROPOSED *EX PARTE*
HEARING ON LOEVY & LOEVY’S MOTION FOR CLARIFICATION**

Defendants Macy’s, Inc., Macy’s Retail Holdings, Inc., now known as Macy’s Retail Holdings, LLC, and Macy’s Corporate Services, Inc., now known as Macy’s Corporate Services, LLC (collectively referred to as the “Macy’s Entities”), through their undersigned counsel, respectfully submit this opposition to the Court’s November 4, 2022 minute order proposing to hold the November 8, 2022 hearing on Loevy & Loevy’s motion for clarification with respect to the selection of Plaintiffs’ interim lead class counsel outside the presence of the Macy’s Entities and Clearview Defendants, and their respective counsel (the “Order,” Dkt 496).

In support of this opposition, the Macy’s Entities state as follows:

1. On September 28, 2022, Scott R. Drury filed a notice of change of law firm and address, indicating that he had left Loevy & Loevy to start his own firm called Drury Legal, LLC. (Dkt. 460). On October 4, 2022, counsel of record from Loevy & Loevy filed motions to withdraw as counsel for Plaintiffs. (Dkts. 462-67).

2. On October 14, 2022, the Court held a status hearing. During the hearing, counsel from Loevy & Loevy, Jonathan I. Loevy, requested permission to file a “motion to intervene on behalf of other class members who want Loevy & Loevy to be lead class counsel.” (10/14/2022

Hr’g Tr. At 13-7-10). The Court ordered Loevy & Loevy to file its motion by October 21, 2022; ordered Mr. Drury to respond by November 1, 2022; ordered Loevy & Loevy to file a reply by November 7, 2022; and set a hearing on the motion for November 8, 2022, at 1:00 p.m. (Dkt. 481).

3. After Loevy & Loevy filed its motion (styled as a motion for order clarifying that the Court intended to appoint Loevy & Loevy as opposed to Mr. Drury as Plaintiffs’ interim lead class counsel (Dkt. 474)) and Mr. Drury filed his response (Dkt. 494), the Court entered the Order on November 4, 2022, stating that “it would be in the interest of the case as a whole to discuss the matter outside the presence of defendants and defense counsel,” even as the Court invited “[m]embers of the public and media ... to call in and listen to this hearing.” (Dkt. 496). The Order did not explain why the hearing should be held *ex parte* and did not indicate whether it was issued *sua sponte* or upon the *ex parte* request of a party. (*See id.*).

4. In the Order, the Court directed the Defendants “to relay their position on the *ex parte* presentment” by the morning of November 8, 2022. (*Id.*). In accordance with the Order, on November 7, 2022, both the Macy’s Entities and Clearview Defendants submitted separate emails to the Courtroom Deputy stating their objections to the *ex parte* hearing. (Ex. A).

5. On November 8, 2022, the Clearview Defendants filed their opposition to the proposed *ex parte* hearing on Loevy & Loevy’s Motion for Clarification. (*See* the “Clearview Opposition,” Dkt. 498).

6. The Macy’s Entities adopt Clearview’s Opposition, in its entirety, as its own opposition to the proposed *ex parte* hearing on Loevy & Loevy’s Motion for Clarification.

Dated: November 8, 2022

Respectfully submitted,

/s/ Paul Yovanic, Jr.

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